

TEXT OF PROPOSED LAWS

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poses by a statute passed in each house by rollcall vote entered in the journal, four-fifths of the membership concurring.

SECTION 11. *Operative Date*

This act shall become effective immediately upon its adoption by the people, however it shall not become operative until January 1 in the year following its adoption.

SECTION 12. *Severability*

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable. In addition, the provisions of this act are intended to be in addition to and not in conflict with any other initiative measure that may be adopted by the people at the same election, and the provisions of this act shall be interpreted and construed so as to avoid conflicts with any such measure whenever possible. In the event the distribution of funds from any of the accounts established by subdivision (c), (d), (e), (f), or (g) of Section 41135 of the Revenue and Taxation Code is permanently enjoined or invalidated by final judicial

action that is not subject to appeal, the funds in any such account shall be continuously transferred to all other accounts in the 911 Emergency and Trauma Care Fund on the same basis as funds are allocated to such accounts by Section 41135 of the Revenue and Taxation Code. Funds remaining in the account shall be allocated as many times as necessary to reduce the account balance to ten thousand dollars (\$10,000) or less.

SECTION 13. *Conformity with State Constitution*

SEC. 13.1. Section 14 is added to Article XIII B of the California Constitution, to read:

SEC. 14. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the 911 Emergency and Trauma Care Fund created by the 911 Emergency and Trauma Care Act. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the 911 Emergency and Trauma Care Fund. The surcharge created by the 911 Emergency and Trauma Care Act shall not be considered General Fund revenues for the purposes of Sections 8 and 8.5 of Article XVI.

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This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends provisions of, and adds sections to, the California Constitution and the Business and Professions Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE GAMING REVENUE ACT OF 2004

SECTION 1. Title.

This act shall be known as and may be cited as the "Gaming Revenue Act of 2004." This act may also be cited as the "Gaming Revenue Act" or the "act."

SEC. 2. Findings and Purpose.

The people of the State of California hereby make the following findings and declare that their purpose in enacting this act is as follows:

(a) California now faces an unprecedented budget deficit of billions of dollars that particularly threatens funding for education, police protection, and fire safety. As a result of California's budget crisis, the state needs to find new ways to generate revenues without raising taxes. In March 2000, Proposition 1A was enacted, which triggered an unprecedented expansion of Indian casino gaming, gave Indian tribes a monopoly on casino gaming, and has led to billions of dollars in profits for Indian tribes, but little or no taxes to the state. Moreover, local governments and communities have not been adequately protected, the state does not have sufficient regulation and oversight of tribal casino gaming, and tribal casinos have not complied with state laws applicable to other businesses and designed to protect California citizens, such as laws regarding the environment and political contributions. Gaming tribes also have failed to fully fund a trust fund to promote the welfare of Indian tribes that do not operate large casinos. Some Indian tribes have attempted to acquire land far away from their reservations or traditional lands to be used as casinos and not for use as traditional reservations. Tribes have expended over one hundred twenty million dollars (\$120,000,000) in political contributions but have refused to comply with disclosure requirements.

(b) California should request that all Indian gaming tribes voluntarily share some of their gaming profits with the state that can be used to support public education, and local police and fire services, and address other problems associated with tribal casino gaming, and in the event all Indian gaming tribes do not do so, California should grant gaming rights to other persons who will share substantial revenue with the state that can be used to support public education and local police and fire services.

(c) The Governor should be authorized to negotiate amendments to all existing compacts with Indian tribes to allow these Indian tribes to continue to have the exclusive right to operate gaming devices in the State of California if the Indian tribes agree to pay 25 percent of their winnings from such devices to a gaming revenue trust fund and agree to comply with state laws, including laws governing environmental protection, gaming regulation, and campaign contributions and their public disclosure.

(d) In the event all Indian tribes with existing compacts do not agree to these terms, five existing horse racing tracks and 11 existing gambling establishments, where forms of legal gambling and wagering already occur, should have the right to operate a limited number of gaming devices, provided they pay 33 percent of their winnings from the operation of such gaming devices to cities, counties, and a gaming revenue trust fund to be used for education, and police and fire services, and provided they comply with strict legal requirements on the operation and location of such gaming devices.

(e) In addition to paying substantial taxes, the owners of gambling establishments and horse racing tracks authorized to operate gaming devices would have to be licensed by the California Gambling Control Commission under the Gambling Control Act, which requires that they be persons of good character, honesty, and integrity, and persons whose prior activities, reputation and associations entitle them to receive a license from the state.

(f) Permitting five existing horse racing tracks and 11 licensed gambling establishments to operate gaming devices and requiring them to pay 33 percent of their winnings from these gaming devices will generate revenues estimated to exceed one billion dollars (\$1,000,000,000) annually. These funds will help alleviate California's dire fiscal crisis, which particularly threatens funding for education, police protection, and fire safety, and will help mitigate the impact on cities and counties where gaming occurs.

(g) The Gaming Revenue Act will establish the Gaming Revenue Trust Fund, the sole purpose of which will be to ensure that the revenues raised by this act are distributed in accordance with the act. The act will also establish a board of trustees consisting of individuals who are engaged in public school education, law enforcement, and fire protection.

(h) The Gaming Revenue Act will provide funding for the existing Division of Gambling Control and the existing California Gambling Control Commission for the purpose of regulating gaming authorized by this act.

(i) The Gaming Revenue Act will increase the moneys distributed to non-gaming Indian tribes by guaranteeing that each such tribe will receive at least one million two hundred thousand dollars (\$1,200,000) annually, and will award three million dollars (\$3,000,000) annually to responsible gambling programs.

(j) The Gaming Revenue Act Trust Fund will distribute 50 percent of the net revenues directly to county boards of education to be used to improve educational services for abused and neglected children and children in foster care.

(k) The Gaming Revenue Act Trust Fund will distribute 35 percent of the net revenues directly to local governments for additional neighborhood sheriffs and police officers.

(l) The Gaming Revenue Act Trust Fund will distribute 15 percent of the net revenues directly to local governments for additional firefighters.

(m) The revenues generated for county offices of education for improving the educational outcomes of abused and neglected children and children in foster care and local governments for police protection and fire safety by this act are not to be used as substitute funds but rather shall supplement the total amount of money allocated for county offices of education and local governments.

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(n) Indian tribes have attempted to acquire land at locations off of their reservations or distant from their traditional Indian lands to be used solely as casinos and not for use as traditional reservations. Gaming on these newly acquired lands would be detrimental to the surrounding communities. Therefore, the Gaming Revenue Act prohibits the location of gaming establishments by Indian tribes on newly or recently acquired lands.

(o) In order to reasonably restrict the growth of non-Indian gaming, non-Indian gaming authorized by this act will be limited to the sites of five existing horse racing tracks located in the Counties of Alameda, Los Angeles, Orange, and San Mateo, and the sites of 11 existing gambling establishments located in the Counties of Los Angeles, San Diego, Contra Costa, and San Mateo. To ensure that there are no new gambling establishments other than those in existence as of the enactment of the act, the current limitation on the issuance of new gambling licenses, which expires in 2007, will be made permanent. The purpose of such restriction is to exercise control over the proliferation of gambling.

(p) The expansion of Indian gaming has led to conflicts between tribes and local governments. In some cases, tribes have failed to take sufficient steps to address local concerns and impacts. Therefore, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to enter into good faith negotiations with county and city governments to address and mitigate community impacts.

(q) To clarify legal jurisdiction over Indian casinos, state courts should have jurisdiction over any criminal or civil proceeding arising under this act, under a compact, or related to a tribal casino. Therefore, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree that state courts will have jurisdiction over such disputes.

(r) Indian tribes have used their gambling profits to spend well over one hundred twenty million dollars (\$120,000,000) on campaign contributions and political activities in California. But some Indian tribes maintain that they are sovereign nations and do not have to comply with California's laws and regulations relating to political contributions and reporting. Because these tribal political expenditures result substantially from, and often concern, gaming activities in California, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to comply with the California Political Reform Act.

(s) While some terms of this act concern conditions tribal casinos must meet if Indian tribes are to retain a monopoly over slot machines, it is the express intent of the voters to raise revenues immediately through this initiative to help solve California's current fiscal crisis, regardless of whether those revenues come from tribal or non-tribal gaming, regardless of court decisions regarding Indian gaming, regardless of changes in federal law, or regardless of any challenges or efforts by the Indian tribes or others to delay or circumvent this act. Therefore, if all Indian tribes with existing compacts do not agree to share with the state 25 percent of their winnings from gaming devices and do not agree to the other conditions on tribal gaming set forth in this act within the time limits provided in this act, it is the express intent of the voters to immediately allow licensed gambling establishments and authorized horse racing tracks to operate a limited number of gaming devices, provided they pay 33 percent of their winnings from the operation of such gaming devices to cities, counties, and the Gaming Revenue Trust Fund.

SEC. 3. Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of ~~slot machines~~ gaming devices and for the conduct of lottery games and banking and percentage card games by federally recognized Indian

tribes on Indian lands in California in accordance with federal law. Accordingly, ~~slot machines~~ gaming devices, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

(h) Notwithstanding subdivisions (e) and (f), and any other provision of state law, the Governor is authorized to negotiate and conclude amendments to all existing compacts with all Indian tribes in accordance with the provisions of this subdivision. An "existing compact" means a gaming compact entered into between the State and an Indian tribe prior to the effective date of the Gaming Revenue Act of 2004. All compacts amended pursuant to this subdivision shall include the following terms, conditions, and requirements:

(1) The Indian tribe shall agree to pay 25 percent of its net win from all gaming devices operated by it or on its behalf to the Gaming Revenue Trust Fund. Such payments shall be made monthly and shall be due within 30 days of the end of each month. "Net win" means the wagering revenue from all gaming devices operated by the Indian tribe or on its behalf retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses. Such payments shall commence immediately after federal approval of the amended compact.

(2) The Indian tribe shall agree to report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of it. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.

(3) The Indian tribe shall agree to pay for an annual audit performed by an independent firm of certified public accountants approved by the California Gambling Control Commission to ensure that the net win is properly reported and the payment is properly paid to the Gaming Revenue Trust Fund. The audit report shall be available to the public upon request.

(4) The Indian tribe shall agree to comply with the California Political Reform Act.

(5) The Indian tribe shall agree that its casino facilities shall comply with the California Environmental Quality Act.

(6) The Indian tribe shall agree to enter into good faith negotiations with any city or county within which the Indian lands are located where class III gaming is conducted to mitigate local gaming-related impacts within a reasonable time following the State's execution of the compact. The state courts shall have exclusive jurisdiction to resolve any dispute regarding the failure to reach an agreement or the enforcement of the agreement.

(7) The Indian tribe shall agree to comply with all provisions of the Gambling Control Act, and shall agree to be subject to the jurisdiction of the California Gambling Control Commission and Division of Gambling Control.

(8) The Indian tribe shall agree that state courts shall have exclusive jurisdiction over any criminal or civil proceeding arising from or related to the Gaming Revenue Act, arising from or related to the compact, or arising from or related to any act or incident occurring on the premises of a tribal casino.

The powers of the State and the applicability of state law to Indian tribes and Indian casinos pursuant to this subdivision are to be construed consistently with the fullest extent of State's rights and powers under federal law to reach agreements with Indian tribes with tribal consent. No tribe with an existing compact is required by this subdivision to agree to amend its existing compact. Nothing in the Gaming Revenue Act of 2004 waives or restricts the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. Sec. 1162), and the State may not waive such jurisdiction in any compacts.

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(i) Notwithstanding subdivisions (a) and (e), and any other provision of state or local law, in the event amendments to all existing compacts with all Indian tribes, as provided in subdivision (h), are not entered into and submitted to the Secretary of the Interior within 90 days of the effective date of the Gaming Revenue Act of 2004, owners of authorized gambling establishments and owners of authorized horse racing tracks shall immediately thereafter be authorized to operate not more than a combined total of 30,000 gaming devices. In the event tribal monopolies are adjudicated to be illegal, in the event the amended compacts are not approved or considered approved pursuant to the Indian Gaming Regulatory Act, or in the event subdivision (h) is invalidated, or delayed more than 90 days after this act would otherwise take effect, by the State, the federal government, or any court, owners of authorized gambling establishments and owners of authorized horse racing tracks shall immediately thereafter be authorized to operate the gaming devices authorized by this section. For purposes of this act, "authorized gambling establishment" shall mean a site in the Counties of Los Angeles, San Diego, Contra Costa, or San Mateo at which 14 or more gaming tables were authorized to be operated as of September 1, 2003, pursuant to the Gambling Control Act, except such sites that were actually taken into trust for an Indian tribe or Indians after September 1, 2003. For purposes of the Gaming Revenue Act of 2004, "authorized horse racing track" shall mean a site in the Counties of Alameda, Los Angeles, Orange, or San Mateo at which horse racing was conducted by a thoroughbred racing association or quarter horse racing association that was licensed pursuant to the Horse Racing Law to conduct more than 50 days or nights of racing in 2002. For purposes of the Gaming Revenue Act of 2004, "site" shall mean the real property on which an authorized horse racing track or an authorized gambling establishment was located as of September 1, 2003, and shall include real property adjacent to the site. The operation of these gaming devices shall be subject to the following provisions:

(1) Payments.

(A) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 30 percent of the net win from gaming devices operated by them to the Gaming Revenue Trust Fund created pursuant to this section. Such payments shall be made monthly and shall be due within 30 days of the end of each month. "Net win" means the wagering revenue from gaming devices operated pursuant to the Gaming Revenue Act of 2004, retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses.

(B) Owners of authorized gambling establishments and authorized horse racing tracks shall report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of them. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.

(C) Owners of authorized gambling establishments and authorized horse racing tracks shall pay for an annual audit performed by an independent firm of certified public accountants approved by the California Gambling Control Commission to ensure that the net win is properly reported and the payment is properly paid to the Gaming Revenue Trust Fund. The audit report shall be available to the public upon request.

(D) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 2 percent of their respective net win from gaming devices operated by them to the city in which each authorized horse racing track and authorized gambling establishment is located. In the event an authorized gambling establishment or an authorized horse racing track is not located within the boundaries of a city, the payment imposed by the Gaming Revenue Act of 2004, shall be made to the county in which the authorized gambling establishment or authorized horse racing track is located. Such payments shall be made monthly and shall be due within 30 days of the end of each month.

(E) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 1 percent of their respective net win from gaming devices operated by them to the county in which each authorized gambling establishment and authorized horse racing track is located. Such payments shall be made monthly and shall be due within 30 days of the end of each month.

(2) Number and Location of Authorized Gaming Devices.

(A) A total of 30,000 gaming devices are authorized to be operated by owners of authorized horse racing tracks and owners of authorized gambling establishments, which are allocated as follows:

(i) For authorized horse racing tracks:

Three thousand gaming devices for each authorized horse racing track. In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, in the event that the owners of an authorized horse racing track for any reason cease to have or lose the right to operate any of the gaming devices authorized by the Gaming Revenue Act of 2004, the gaming devices allocated to that authorized horse racing track shall be reallocated equally among the remaining authorized horse racing tracks. Notwithstanding the limit of 3,000 gaming devices, owners of authorized horse racing tracks may also transfer, sell, license, or assign their rights to own and operate one or more gaming devices to other authorized horse racing tracks or authorized gambling establishments, but in no event shall the total number of gaming devices authorized to be operated at an authorized horse racing track exceed 3,800. The owners of gaming devices that are reallocated, or are transferred, sold, licensed, or assigned pursuant to this clause shall make the distributions required by Section 19609 of the Business and Professions Code.

(ii) For authorized gambling establishments:

(I) Authorized gambling establishments located in Los Angeles County authorized as of September 1, 2003, to operate 100 or more gaming tables shall be authorized to operate 1,700 gaming devices each; authorized gambling establishments in Los Angeles County authorized as of September 1, 2003, to operate between 14 and 99 gaming tables shall be authorized to operate 1,000 gaming devices each; and all other authorized gambling establishments shall be authorized to operate 800 gaming devices each.

(II) Licensed gambling establishments that are not authorized gambling establishments under this section shall be licensed for four gaming devices for each table authorized pursuant to the Gambling Control Act as of September 1, 2003, up to a maximum of 2,000 gaming devices in total, which they cannot operate at their gambling establishments, but may transfer, sell, or assign the rights to own or operate such gaming devices to authorized gambling establishments.

(III) In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, in the event the owners of an authorized gambling establishment described in subclause (I) for any reason cease to have or lose the right to operate any of the gaming devices authorized by the Gaming Revenue Act of 2004, these gaming devices shall be transferred or allocated to authorized gambling establishments pro rata according to the allocation in subclause (I). Notwithstanding the limitation on gaming devices imposed by subclause (I), authorized gambling establishments may also transfer, sell, license, or assign their rights to own and operate one or more gaming devices to other authorized gambling establishments or authorized horse racing tracks, but in no event shall the total number of gaming devices authorized to be operated at an authorized gambling establishment exceed 1,900.

(IV) In the event that the allocation of gaming devices set forth in clause (ii) exceeds 15,000, the gaming devices authorized pursuant to subclause (II) shall be reduced ratably to bring the total number of gaming devices allocated to all authorized gambling establishments to 15,000 or less.

(B) The owners of an authorized horse racing track may, in accordance with provisions of applicable law, relocate its racing meeting to another site whether or not it is an authorized horse racing track, or discontinue its racing operation. In the event they do so, however, the gaming devices authorized to be operated by them may only be operated at an authorized horse racing track or an authorized gambling establishment.

(C) In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, the owner or operator of an authorized horse racing track and the owner or operator of an authorized gambling establishment whose facilities are located in the same city may agree upon the maximum number of gaming devices that may be operated at each such facility, subject to approval of any such agreement by the California Gambling Control Commission, which shall make its decision of whether to approve any such agreement based upon a determination that any such agreement is in the interests of regulated gaming in the State of California. Any such agreement approved by the California Gambling Control Commission shall not exceed three years in duration.

(3) Suspension of Authorization.

The authorization to operate gaming devices and to transfer, sell, or assign rights to gaming devices pursuant to this subdivision may be suspended by the California Gambling Control Commission for failure to make the payments imposed by this subdivision within 30 days of such payments becoming due.

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(4) Prohibition on Additional Fees, Taxes, and Levies.

The payments imposed pursuant to the Gaming Revenue Act of 2004 are in lieu of any and all other fees, taxes, or levies, including, but not limited to, revenue, receipt, or personal property taxes, that may be charged or imposed, directly or indirectly, against authorized horse racing tracks or authorized gambling establishments, their patrons, gaming devices, employers, or suppliers, by the State, cities, or counties, excepting fees, taxes, or levies that were in effect and imposed prior to September 1, 2003, that applied to horse racing and controlled games with cards or tiles, or that are applied generally to commercial activities, including sales and use, income, corporate, or real property taxes. The physical expansion of gaming facilities or the operation of gaming devices authorized by the Gaming Revenue Act of 2004 shall not be considered an enlargement of gaming operations under any local ordinance related to fees, taxes, or levies.

(5) Licenses.

The owners of authorized gambling establishments and the owners of authorized horse racing tracks shall be licensed by the California Gambling Control Commission under the Gambling Control Act.

(6) Other Laws.

The Gaming Revenue Act of 2004 shall supercede any inconsistent provisions of state, city, or county law relating to gaming devices, including, but not limited to, laws regarding the transportation, manufacture, operation, sale, lease, storage, ownership, licensing, repair, or use of gaming devices authorized in this act. In order to encourage the maximum generation of revenue for the Gaming Revenue Trust Fund, the operation of gaming devices authorized pursuant to the Gaming Revenue Act of 2004 is not subject to any prohibition in state or local law now existing or hereafter enacted.

(j) Gaming Revenue Trust Fund.

(1) There is hereby established the Gaming Revenue Trust Fund in the State Treasury that shall receive all payments pursuant to the requirements of subdivisions (h) and (i).

(2) There is hereby established the board of trustees to administer the Gaming Revenue Trust Fund. The board of trustees shall be comprised of five members appointed by the Governor. Of the five members, two shall be engaged in public school education, one shall be engaged in law enforcement, one shall be engaged in fire protection, and one shall be a certified public accountant. Each member shall be a citizen of the United States and a resident of this state. No more than three of the five members shall be members of the same political party. Of the members initially appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and one shall be appointed for a term of four years. After the initial terms, the term of office of each member shall be four years. The Governor shall appoint the members and shall designate one member to serve as the initial chairperson. The initial chairperson shall serve as chairperson for the length of his or her term. Thereafter, the chairperson shall be selected by the board of trustees. The initial appointments shall be made within three months of the operative date of the Gaming Revenue Act of 2004. The board of trustees shall approve all transfers of moneys from the Gaming Revenue Trust Fund. The board of trustees shall engage an independent firm of certified public accountants to conduct an annual audit of all accounts and transactions of the Gaming Revenue Trust Fund.

(3) The moneys in the Gaming Revenue Trust Fund shall be distributed as follows:

(A) Not more than 1 percent of the moneys annually to the Division of Gambling Control and the California Gambling Control Commission for the cost of carrying out administrative duties pursuant to the Gaming Revenue Act of 2004, and for reimbursement of any state department or agency that provides any service pursuant to the provisions of the Gaming Revenue Act of 2004.

(B) Moneys sufficient to guarantee that each non-gaming tribe shall receive one million two hundred thousand dollars (\$1,200,000) annually from the Indian Gaming Revenue Sharing Trust Fund as codified in the Government Code. "Non-gaming tribe" shall mean a federally recognized Indian tribe which operates fewer than 350 gaming devices.

(C) Three million dollars (\$3,000,000) to be awarded annually by the board of trustees to responsible gambling programs.

(D) After the distributions required pursuant to subparagraphs (A), (B), and (C), the remaining moneys shall be distributed as follows:

(i) Fifty percent to county offices of education to provide services for abused and neglected children and children in foster care. These moneys shall be allocated to each county office of education according to each county's proportionate share of the annual statewide total of child abuse referral reports for the prior calendar year and shall be used to improve educational outcomes of abused and neglected children and children in foster care. Each county office of education shall allocate these funds to county child protective services agencies to provide these services. Funds received by each county child protective services agency shall be used for the following purposes:

(I) Out-stationing county child protective services social workers in schools.

(II) Providing appropriate caseloads to ensure that professional staff will have sufficient time to provide services necessary to improve the educational outcomes of abused and neglected children and children in foster care.

(III) Providing services to children in foster care to minimize mid-year transfers from school to school.

(IV) Hiring juvenile court workers whose responsibility it is to ensure the implementation of court orders issued by juvenile court judges affecting a foster child's educational performance.

Each county child protective services agency shall be subject to all accountability standards including student performance, enrollment, school stability, and performance measured by the percentage of children at grade level on standardized tests, as provided by state and federal law. Each county child protective services agency shall use funds received pursuant to this section in a manner that maximizes the counties' ability to obtain federal matching dollars for services to children in the child protective services system.

(ii) Thirty-five percent to local governments on a per capita basis for additional neighborhood sheriffs and police officers.

(iii) Fifteen percent to local governments on a per capita basis for additional firefighters.

(k) The Governor shall not consent, concur, or agree to the location of any tribal casinos on newly acquired land pursuant to 25 U.S.C. Sec. 2719(b)(1)(A). Further, any compact entered into by the State pursuant to 25 U.S.C. Sec. 2710(d) shall only be for class III gaming on Indian lands actually taken into trust by the United States for the benefit of an Indian tribe prior to September 1, 2003, except for land contiguous to reservations existing as of that date.

SEC. 4. Section 19609 is added to the Business and Professions Code, to read:

19609. (a) Unless otherwise defined in this chapter, the terms used in this section shall have the meaning ascribed to them in the Gaming Revenue Act of 2004 ("the act").

(b) Three-quarters of 1 percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed for thoroughbred incentive awards and shall be payable to the applicable official registering agency and thereafter distributed as provided in the California Horse Racing Law.

(c) One and one-half percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed to each of those thoroughbred racing associations and racing fairs that are not authorized horse racing tracks in the same relative proportions that such thoroughbred racing associations or racing fairs generated commissions during the preceding calendar year. A lessee of an authorized horse racing track as of the effective date of the act shall not be deemed to be an authorized horse racing track for the purposes of this section.

(d) Seventeen and three-quarters percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be pooled ("the pooled net win") and shall be distributed in the form of purses for thoroughbred horses in accordance with the provisions of this subdivision.

(I) The pooled net win shall be allocated to thoroughbred racing associations and racing fairs throughout the State of California and shall be distributed among each of them in such manner as to equalize on an average daily basis purses for thoroughbred races other than stakes and special events. Notwithstanding the foregoing, pooled net win may be allocated to supplement purses for thoroughbred races so the thoroughbred racing associations and racing fairs may maintain

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up to their historic relative proportions between overnight races, and stakes races and special events. Increases in the aggregate amount of purses for stakes races of thoroughbred racing associations and racing fairs resulting from pooled net win contributions shall be determined in accordance with an agreement signed by all the thoroughbred racing associations and the organization responsible for negotiating thoroughbred purse agreements on behalf of thoroughbred horsemen.

(2) Notwithstanding the provisions of paragraph (1), the funds distributable to thoroughbred racing associations and racing fairs from the pooled net win shall be allocated in such a manner as to cause average daily purses for thoroughbred races, other than stakes races and special events, to be the percentages of the average daily purses for such races conducted by thoroughbred racing associations in the central and southern zone as set forth below:

(A) Ninety percent for thoroughbred racing associations in the northern zone;

(B) Sixty-five percent for a racing fair in the central zone;

(C) Fifty percent for racing fairs in the northern zone other than the Humboldt County Fair;

(D) Seven and one-half percent for the Humboldt County Fair.

(3) Notwithstanding the provisions of this subdivision to the contrary, the allocation of purses among the thoroughbred racing associations and the racing fairs may be altered upon approval of the California Horse Racing Board, in accordance with an agreement signed by all of the thoroughbred racing associations and the organization responsible for negotiating thoroughbred purse agreements on behalf of horsemen.

(4) The California Horse Racing Board shall be responsible for the oversight of the distribution of the pooled net win in accordance with the provisions of this subdivision.

(e) Eighteen and one-half percent of the net win from all gaming devices operated by owners of an authorized horse racing track upon which a quarter horse racing meeting was conducted in 2002 shall be paid to supplement purses of races conducted by a quarter horse racing association.

(f) One and four-tenths percent of the net win from gaming devices operated by owners of an authorized horse racing track described in subdivision (e) shall be paid to supplement the purses of harness races conducted by a harness racing association that conducts at least 150 days or nights of harness racing annually at the California Exposition and State Fair, and one-tenth of 1 percent of such net win shall be paid to the harness racing association described in this subdivision.

SEC. 5. Section 19805.5 is added to the Business and Professions Code, to read:

19805.5. As used in this chapter, and in the Gaming Revenue Act of 2004, "gaming device" shall mean and include a slot machine, under state law, or any class III device under the Indian Gaming Regulatory Act. The operation of a gaming device by a tribe, entity, or person authorized to operate gaming devices under the Gaming Revenue Act shall constitute controlled gaming under state law.

SEC. 6. Section 19863 of the Business and Professions Code is amended to read:

19863. A publicly traded racing association or a qualified racing association, or their successors in interest, shall be allowed to operate only one gaming gambling establishment, and the gaming gambling establishment shall be located on the same premises site as the entity's racetrack was located in 2002.

SEC. 7. Section 19985 is added to the Business and Professions Code, to read:

19985. (a) Except as provided in this section, the Gambling Control Act, including, but not limited to, the jurisdiction and powers of the division and commission to enact regulations, to enforce applicable law, to conduct background investigations, and to issue licenses and work permits, shall apply to authorized horse racing tracks, as defined in the Gaming Revenue Act, and to the operators of gaming devices thereon, including their successors in interest, in and to the same extent the Gambling Control Act applies to gambling establishments.

(b) Employees of authorized horse racing tracks who are not owners, shareholders, partners, or key employees, and whose job responsibilities do not involve controlled games, shall not be required to obtain work permits pursuant to this chapter.

SEC. 8. Section 19962 of the Business and Professions Code is amended to read:

19962. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) ~~Am~~ No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may ~~not~~ be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section ~~shall remain operative only until January 1, 2010, and as of that date is repealed~~ is not intended to prohibit gaming authorized by the Gaming Revenue Act of 2004.

SEC. 9. Section 19963 of the Business and Professions Code is amended to read:

19963. ~~(a)~~ In addition to any other limitations on the expansion of gambling imposed by Section 19962 or any provision of this chapter, and except as provided in the Gaming Revenue Act of 2004, the commission ~~may~~ shall not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

~~(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 10. Section 19817 of the Business and Professions Code is amended to read:

19817. The commission shall establish and appoint a Gaming Policy Advisory Committee of 10 members. The committee shall be composed of representatives of controlled gambling licensees, authorized horse racing tracks under the Gaming Revenue Act, representatives of gaming tribes, and members of the general public ~~in equal numbers~~. The executive director shall, from time to time, convene the committee for the purpose of discussing matters of controlled gambling regulatory policy and any other relevant gambling-related issue. The recommendations concerning gambling policy made by the committee shall be presented to the commission, but shall be deemed advisory and not binding on the commission in the performance of its duties or functions. ~~The committee may not advise the commission on Indian gaming.~~

SEC. 11. Section 12012.6 is added to the Government Code, to read:

12012.6. (a) Notwithstanding Sections 12012.25 and 12012.5, and any other provision of law, the Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the State of California pursuant to the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within this state. Nothing in this section shall be construed to deny the existence of the Governor's authority to have negotiated and executed tribal-state gaming compacts prior to the effective date of this section.

(b) The Governor shall submit a copy of any executed tribal-state compact to the Secretary of State, who shall forward a copy of the executed compact to the Secretary of the Interior for his or her review and approval, in accordance with paragraph (8) of subsection (d) of Section 2710 of Title 25 of the United States Code.

SEC. 12. Section 12012.75 of the Government Code is amended to read:

12012.75. There is hereby created in the State Treasury a special fund called the "Indian Gaming Revenue Sharing Trust Fund" for the receipt and deposit of moneys derived from gaming device license fees that are paid into the fund pursuant to the terms of tribal-state gaming compacts, and moneys received from the Gaming Revenue Trust Fund, for the purpose of making distributions to noncompact tribes. Moneys in the Indian Gaming Revenue Sharing Trust Fund shall be available to the California Gambling Control Commission, upon appropriation by the Legislature, for the purpose of making distributions to noncompact tribes, in accordance with ~~distribution plans specified in the Gaming Revenue Act and tribal-state gaming compacts.~~

SEC. 13. Section 8.3 is added to Article XVI of the California Constitution, to read:

Proposition 68 (cont.)

SEC. 8.3. (a) Funds appropriated pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be part of “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B” as that term is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

(b) Revenues derived from payments made pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be “General Fund revenues”, which may be appropriated pursuant to Article XIII B” as that term is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of “per capita General Fund revenues” as that term is used in paragraph (3) of subdivision (b) and in subdivision (e) of Section 8.

SEC. 14. Section 14 is added to Article XIII B of the California Constitution, to read:

SEC. 14. (a) For purposes of this article, “proceeds of taxes” shall not include the revenues created by the Gaming Revenue Act of 2004.

(b) For purposes of this article, “appropriations subject to limitation” of each entity of government shall not include appropriations of revenues from the Gaming Revenue Trust Fund created by the Gaming Revenue Act of 2004.

SEC. 15. Amendment

The statutory provisions of this act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All statutory amendments to this act shall be to further the act and must be consistent with its purposes.

SEC. 16. Consistency With Other Ballot Measures

The provisions of this act are not in conflict with any initiative measure that appears on the same ballot that amends the California Constitution to authorize gaming of any kind. In the event that this act and another measure that amends the California Constitution to permit gaming of any kind are adopted at the same election, the courts are

hereby directed to reconcile their respective statutory provisions to the greatest extent possible and to give effect to every provision of both measures.

SEC. 17. Additional Funding

No moneys in the Gaming Revenue Trust Fund shall be used to supplant federal, state, or local funds used for child protective and foster care services, neighborhood sheriffs and police officers, and firefighters but shall be used exclusively to supplement the total amount of federal, state, and local funds allocated for child protective services and foster care which improve the educational outcomes of abused and neglected children and children in foster care and for additional sheriffs, police officers, and firefighters.

SEC. 18. Judicial Proceedings

In any action for declaratory or injunctive relief, or for relief by way of any extraordinary writ, wherein the construction, application, or validity of Section 3 of this act or any part thereof is called into question, a court shall not grant any temporary restraining order, preliminary or permanent injunction, or any peremptory writ of mandate, certiorari, or prohibition, or other provisional or permanent order to restrain, stay, or otherwise interfere with the operation of the act except upon a finding by the court, based on clear and convincing evidence, that the public interest will not be prejudiced thereby, and no such order shall be effective for more than 15 calendar days. A court shall not restrain any part of this act except the specific provisions that are challenged.

SEC. 19. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this act are severable.

Proposition 69

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the Government Code, and amends, repeals, and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION I. Title

(a) This measure shall be known and referred to as the DNA Fingerprint, Unsolved Crime and Innocence Protection Act.

SEC. II. Findings and Declarations of Purpose

The people of the State of California do hereby find and declare that:

(a) Our communities have a compelling interest in protecting themselves from crime.

(b) There is critical and urgent need to provide law enforcement officers and agencies with the latest scientific technology available for accurately and expeditiously identifying, apprehending, arresting, and convicting criminal offenders and exonerating persons wrongly suspected or accused of crime.

(c) Law enforcement should be able to use the DNA Database and Data Bank Program to substantially reduce the number of unsolved crimes; to help stop serial crime by quickly comparing DNA profiles of qualifying persons and evidence samples with as many investigations and cases as necessary to solve crime and apprehend perpetrators; to exonerate persons wrongly suspected or accused of crime; and to identify human remains.

(d) Expanding the statewide DNA Database and Data Bank Program is:

(1) The most reasonable and certain means to accomplish effective crime solving in California, to aid in the identification of missing and unidentified persons, and to exonerate persons wrongly suspected or

accused of crime;

(2) The most reasonable and certain means to solve crime as effectively as other states which have found that the majority of violent criminals have nonviolent criminal prior convictions, and that the majority of cold hits and criminal investigation links are missed if a DNA database or data bank is limited only to violent crimes;

(3) The most reasonable and certain means to rapidly and substantially increase the number of cold hits and criminal investigation links so that serial crime offenders may be identified, apprehended and convicted for crimes they committed in the past and prevented from committing future crimes that would jeopardize public safety and devastate lives; and

(4) The most reasonable and certain means to ensure that California’s Database and Data Bank Program is fully compatible with, and a meaningful part of, the nationwide Combined DNA Index System (CODIS).

(e) The state has a compelling interest in the accurate identification of criminal offenders, and DNA testing at the earliest stages of criminal proceedings for felony offenses will help thwart criminal perpetrators from concealing their identities and thus prevent time-consuming and expensive investigations of innocent persons.

(f) The state has a compelling interest in the accurate identification of criminal offenders, and it is reasonable to expect qualifying offenders to provide forensic DNA samples for the limited identification purposes set forth in this chapter.

(g) Expanding the statewide DNA Database and Data Bank Program is the most reasonable and certain means to ensure that persons wrongly suspected or accused of crime are quickly exonerated so that they may reestablish their standing in the community. Moreover, a person whose sample has been collected for Database and Data Bank purposes must be able to seek expungement of his or her profile from the Database and Data Bank.

SEC. III. DNA and Forensic Identification Database and Data Bank Act